

## **VILLAGE OF ALLEGANY. NEW YORK**

### **LOCAL LAW NO.3-2024 NOISE MITIGATION LAW**

A Local Law to Amend and Replace in its entirety, Article XVIII of Local Law 1-1983 General Municipal Code of the Village of Allegany, New York

BE IT ENACTED by the Board of Trustees of the Village of Allegany, New York, as follows:

#### **SECTION 1. - TITLE**

This Local Law shall be entitled "Noise Mitigation Law".

#### **SECTION 2 - PURPOSE**

It is hereby declared to be the policy of the Village of Allegany to prevent excessive, unnecessary or unusually loud noise. It is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of preserving, protecting and promoting the public health, comfort, convenience, safety, welfare and the peace and quiet of the Village of Allegany and its inhabitants. This law, by suppressing the making, creation or maintenance of excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use and which are detrimental to the environment and the peace and quiet of the community. It is also the purpose of this law to allow all residents of the Village to coexist harmoniously in a manner which is mutually respectful of the interests, rights and obligations of all persons. The community believes that it should rely on the good sense of all residents to respect one another's living and working environments and one another's right to an environment that is free from noise disturbances. The peace and tranquility of the village has sometimes been disrupted by excessive, disturbing, and offensive noises. The level of these noises adversely affects the health, comfort, convenience, safety and welfare of persons within the village. All persons are entitled to an environment free of disturbing, excessive or offensive noises that are detrimental to life, health or personal peace and tranquility. The purpose of this law is to be construed liberally but is not intended to be construed so as to discourage the enjoyment of normal, reasonable and usual activities.

#### **SECTION 3 - DEFINITION**

As used in the local law, the following terms shall have the meaning indicated:

**PERSON:** Any individual, partnership, company, public or private corporation, association, firm, organization, political subdivision, governmental agency, administration or department, municipality, trust, state or any other legal entity whatsoever.

## SECTION 4 – PROHIBITED ACTS

No person, acting with disregard for public inconvenience, annoyance, or alarm, or acting with reckless disregard to the effects on others, shall cause, suffer, allow or permit the creation of unreasonable noise. For purposes of this law, unreasonable noise is any excessive, unnecessary, unnatural or unusually loud noise which is prolonged, unusual and unnatural in its time, place and use.

1. Unreasonable noise shall mean any sound created or caused to be created by any person which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of the public or which causes injury to animal life or damages to property or business. Factors to be considered in determining whether unreasonable noise exists in a given situation include but are not limited to any or all of the following:
  - A. The intensity of the noise.
  - B. Whether the origin of the noise is associated with nature or human-made activity.
  - C. The intensity of the background noise, if any.
  - D. The proximity of the noise to sleeping facilities.
  - E. The time of the day or night the noise occurs.
  - F. The time duration of the noise.
  - G. The volume of the noise.
  - H. The existence of complaints concerning the noise from person living or working in different places or premises who are affected by the noise.
2. The following acts are declared to be prime facie evidence of a violation of this law. This enumeration is not to be deemed as exclusive.
  - A. Any unnecessary noise from any source between the hours of 10:00p.m. and 7:00a.m. the following day Sunday through Thursday, or 11:00p.m. and 7:00a.m. Friday and Saturday.
  - B. Noise from a dog or other privately owned animal that continues with only minor interruptions for thirty (30) minutes or more.
  - C. Noise from a burglar or other alarm system of any building or motor vehicle which continues with only minor interruptions for ten (10) minutes or more.
  - D. The use of explosives, firearms or similar devices.
  - E. The operation of any sound reproduction device or audio equipment, including, but not limited to, such equipment in a parked or moving vehicle, or the use of any musical instrument or human voice in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in a dwelling, hotel or other type of residence.

- F. The acts of unnecessary yelling, hollering, screaming, partying sounds or radio and recording sounds which are unreasonably loud, disturbing, unnecessary, beyond the property line of the source, between the hours of 10:00p.m. and 7:00a.m. the following day Sunday through Thursday, or 11:00p.m. and 7:00a.m. Friday and Saturday.
- G. Noise from any sound reproduction system operating or similar device that reproduces or amplifies sound in such a manner as to be annoying to a reasonable person when heard from its source sixty (60) feet beyond any property line between the hours of 10:00p.m. and 7:00a.m., Sunday through Thursday, or on Friday and Saturday between the hours of 11:00p.m. and 7:00a.m. the following day.
- H. Noise from public bars, restaurants, public party houses, or the like, so loud as to be annoying to a reasonably person when heard sixty (60) feet from or beyond the property line of the establishment.
- I. The erection, including excavation, demotion, alteration, or repair of any structure other than between 7:00a.m. and 9:00p.m. except in case of an emergency public safety requirement.
- J. The operation of a motor vehicle, motorcycle, lawn tractor or other gasoline or diesel engine that, due to modifications or through normal wear and tear, emits a sound greater than that emitted as originally manufactured.
- K. The operation of power equipment such as tractors, mowers, power saws and similar noise-producing equipment in residential zones on weekdays between 10:00p.m. and 7:00a.m. the following day, and on weekends between 10:00p.m. and 7:00a.m., except in the case of an emergency public safety vehicle.
- L. The sounding of any horn or signaling device of an automobile, motorcycle or other vehicle for any unnecessary period of time. Except in the case of an emergency public safety vehicle.
- M. The making of improper noise or disturbance or operating an automobile or motorcycle in such a manner as to cause excessive motor roar, or excessive squealing of the tires.
- N. Shouting or other outcry or clamor upon the public streets or sidewalks for the purpose of selling or otherwise attracting attention.

### 3. Abatement of excessive noise.

The Village of Allegany Police Department is directed to take any reasonably necessary action to abate the noise created by unattended mechanical device such as an engine, alarm or the like when a person responsible for the device or a person who can silence the device is not present and cannot be contacted in a reasonably short time.

4. Exceptions. The provision of this law shall not apply to the following acts:
  - A. The emission of sound for the purpose of alerting persons to the existence of an emergency
  - B. Noise from municipality sponsored celebrations or events.
  - C. Noise from individually sponsored special events where a permit for the event has been obtained from the Village Clerk, after having been agreed to by the Village Board
    1. Written request/application must be received by the clerk to present at the subsequent Village Board meeting.
    2. When authorized by the Village Board, the Village Clerk is empowered to issue a permit for a wedding reception or similar event to be held outdoors or in a tent with music provided by a band, orchestra or sound reproduction equipment, provided that the sound levels are not annoying to a reasonable person when heard at a distance of 500 feet from its source and provided that the event does not continue beyond 10:00p.m. and is limited to a maximum duration of four (4) hours.
    3. The date and intended hours of the event shall be furnished to the Village Clerk at the time of application for permit and shall be listed on the permit.
    4. Other reasonable conditions which conform to the intent and purposes of this section may be imposed upon the issuance of such permits which are not authorized more frequently than once in any six-month period for the same property.
    5. The Village Board reserves the right to limit the number and frequency of permits granted in any geographic areas of the Village of Allegany.
    6. A copy of each permit along with the conditions limiting such permit will be provided to the Village Police Department.
  - D. The operation or use of any organ, radio, bell, chimes or the like by any church, synagogue or school licensed or chartered by the State of New York, provided that such operation or use does not occur between the hours of 10:00p.m. and 7:00a.m.
  - E. Noise generated by the installation and maintenance of utilities and emergency and public service equipment.
  - F. Music in connection with a military or civic parade, funeral procession or religious service authorized by the village board.

- G. Authorized sporting events, beginning one-half hour before and ending fifteen minutes after the event, as long as use does not occur between the hours of 10:00p.m. and 8:00a.m. This exception does not apply to set-up or warm-up times related to sporting events or practices.

## **SECTION 5 – PENALTIES**

A violation of this local law shall be punishable by a fine of not less than one hundred fifty (\$150) dollars nor more than five hundred (\$500) dollars or by imprisonment for not more than fifteen (15) days for each violation or by both said fine and said imprisonment.

Repeated violations of three or more within a three-month time period may be considered a “Nuisance”. Each time a police agency is called to said property for a verified noise violation a letter will go to the homeowner as well as the lessee. After the 3<sup>rd</sup> violation the property in question will be considered a “nuisance”. The homeowner as well as the lessees will receive a five hundred (\$500) dollar fine. (See Local Law 2-2024 – Nuisance Parties).

## **EFFECTIVE DATE**

This law becomes effective when filed with the Secretary of State of New York State.